

ANNOUNCEMENT.

I hereby announce myself as a candidate for the office of COUNTY ASSESSOR subject to the will of the county Republican convention.

J. A. VAN EATON.

NO CONSTITUTIONAL LIMITATION

The recent supreme court decision virtually settles the location and building of the Eastern Oregon asylum at Union, Oregon. But it leaves unsettled the graver question of the constitutional limitations on the legislature.

The court has held that in spite of the proviso "that all the public institutions of the state, hereafter provided for by the legislature," shall be located at "the seat of government," a state institution that will cost \$250,000 complete can be located 300 miles from the seat of government.

The court has furthermore held that it cannot take jurisdiction of a constitutional limitation, where the legislature has acted deliberately on a matter more than merely directing state officers in their ministerial duties. This leaves the legislature practically without restraint by the court.

The next legislature might move the seat of government itself or abolish the supreme court, and the people would have no redress but to pay the bills and pay the loss. What were limitations in the constitution placed there for if not to restrain the legislature from doing certain things?

What is the supreme court for but to declare conflict of laws, and declare when one department of the government has exceeded its prescribed authority? No one pretends that the legislature would be authorized to amend the constitution itself without submitting the amendment to a vote of the people. Yet that is what is done by the decision of the court.

We do not speak of this matter from the standpoint of the interests of Union county or of Marion county. All men will jealously guard their own local interests. But what is the government and the constitution for? It is to protect the interests of all, not local interests. If the legislature can override constitutional limitations in the interest of one locality it can of another, and this court decision makes the legislature a still more lawless and irresponsible assemblage than ever, at the mercy of the combinations and logrolling, with every check removed, and with a special incentive to the hoodler, while the court sits back and declares it will not interfere.

The well-known principle that a state legislature has all powers that are not expressly inhibited by the organic law, and that those inhibitions must be closely construed by the courts to protect the people and the various departments of government from encroaching upon each other, has been grossly violated and set aside.

None will say this to offend the gentlemen of the court. All believe they are conscientious and sincere. But we cannot subscribe to their doctrine. It leaves the constitution meaningless, and the people without protection against a corrupt legislature. The people have no redress, unless this decision is reversed, but to hold a constitutional convention, and make a new constitution that shall be respected, or they must have the referendum as the only check upon reckless legislation. Speaker Moore says Oregon may never have a better legislature than the last, and if that is true the people are with no barrier between themselves and selfish politicians.

MEN of ALL AGES

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THE BRANCH ASYLUM CASE.

A History of This Important Litigation in Oregon.

Walter Lyon writes the Oregonian: The renewed efforts to obtain an official declaration of the supreme court upon the power of the board of building commissioners to locate a public building away from the capital revives the history, written and unwritten, of the branch asylum case.

A suit of injunction was first filed in the Marion county circuit court by the state of Oregon, upon the relation of A. C. Taylor, a taxpayer of Polk county, vs. Sylvester Pennoyer, George W. McBride and Poli Matschan, comprising the state board of building commissioners. The suit was instituted shortly after the passage of an act by the legislature in 1893, appropriating \$165,000, or so much thereof as might be necessary for the purchase of a site and erection of a branch asylum building in Eastern Oregon. The complaint set out that the relator, Taylor, was a taxpayer, and that, unless restrained, the board would pay out a large sum of money for the purpose of locating a state building away from the capital, in contravention of a provision of the constitution that says all public buildings shall be located at the seat of government, which would be to the irreparable injury of the plaintiff, who had no other plan or adequate remedy at law.

A general demurrer was interposed by the defendants. The demurrer was overruled and an appeal taken to the supreme court, upon which an opinion was rendered in October, 1894. In this opinion it was held that the mere suggestion that the act was unconstitutional, and that the legislature had exceeded its constitutional limitations, were insufficient to call into requisition a court of equity. The state having failed to show in pleadings that the cost of erecting and maintaining an asylum building in Eastern Oregon would have been greater than at the seat of government, thereby increasing the burdens of taxation, the supreme court held that the demurrer should have been sustained, and the cause was remanded to the lower court for further proceedings not inconsistent with the opinion.

There seems to have been an error in the mandate sent down in ordering the injunction dissolved and the case dismissed, and, upon motion of plaintiff, it was recalled and modified to conform with the opinion.

An amended complaint was filed in the lower court, alleging, among other things, that the location of a branch asylum in Eastern Oregon would greatly increase the burdens of taxation in requiring \$100,000 more to construct the building, and \$50,000 more annually to maintain the proposed asylum in Eastern Oregon than at the seat of government. Defendants again demurred, on the ground that facts sufficient to constitute a cause of suit were not stated, and again the demurrer was overruled. Defendants answered, and, upon trial of the issues thus joined, plaintiff introduced evidence in support of the allegations of extra cost that would be incurred by locating the proposed building in Eastern Oregon. The trial resulted in a decree by Judge Hewitt in favor of the plaintiff, rendered in October, 1895, perpetually enjoining the board from locating the building in Eastern Oregon. Appeal from the decision was again taken to the supreme court and another opinion handed down last month, reversing the judgment of the lower court and ordering the complaint dismissed.

The personnel of the board was changed in January, 1895, upon the installation of state officers, Governor Lord, Secretary Kincaid and Treasurer Matschan, by virtue of their offices, constituting the board. H. J. Bigger and W. H. Holmes have prosecuted the case for the state, and J. C. Moreland and G. G. Bingham for the defense. When last argued before the supreme court, however, only H. J. Bigger appeared for the state, and J. C. Moreland and Governor Lord for the board. There has been some comment on the governor's action in appearing as counsel. He is reported as taking the ground that the courts cannot take jurisdiction in a suit to restrain the chief executive of a state

in executing a law passed by the legislature, and that the act creating the branch asylum and board of commissioners was a public matter of governmental nature, and cannot be reached by injunction.

While the opinion follows the governor's argument very closely, there is a difference of opinion among attorneys as to whether or not the opinion declares that the case cannot be reached by injunction.

It is the intention to file a petition for rehearing next week, when all the points of the opinion will be more thoroughly considered by the attorneys. If a rehearing is denied, those unwilling to give up the case without the constitutionality of locating the branch asylum away from the capital being passed upon will look to the secretary of state to withhold warrants and force a mandamus suit.

AFTER HERMANN'S SCALP.

After publishing interviews with some Portland ring politicians, who are not in touch with the people at all, the Oregonian says yesterday:

The number of Republican congressional aspirants in the first congressional district continues to increase. The fact that Hermann's chances are now considered so exceedingly dim as to almost retire him from the race, has brought out a number of candidates. There is Harry E. Miller of Josephine county, T. T. Geer and Tilton Ford of Marion county, George Brownell of Clackamas county, and Warren Truitt of Polk. There are likely to be others who will be at Albany when the convention meets on April 7, with their political rods in the air, and the forthcoming meeting will be an extremely lively affair.

If any reliance can be placed on the Oregonian at all, Mr. Hermann is out of the race. But who believes what the hired liars of the Oregonian say on any subject.

STATE UNIVERSITY REFORM.

A university attended by hundreds of non-resident young men will be given over to devilry of some sort. There will be riotous spirits that all culture and religion will not subjugate, and they will have their following.

But there are worse defects about a university than outbreaks by physical boisterousness. If an institution is run by a faction of mossback ring politicians who have outlived their usefulness and who cannot adjust themselves to the needs of reform, it is in danger of a revolution of public sentiment.

The State University of Oregon has lost standing in the eyes of the people of the whole country the last year and will continue to lose until it can adjust itself to the improving ideals of what a university should be. It should not be let fall further into contempt.

"Oh! for another Abraham Lincoln!"—Searchlight. There are lots of Abraham Lincolns, but the trouble is to get them to the front in this degenerate age.—Salem Post.

You won't find them in the Populist party.

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